

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

ROBERT R. DI TROLIO
CLERK OF U.S. DIST. CT.
W.D. OF TN - JACKSON

CHARLOTTE GRIFFIN HAMILTON,)
Individually and as parent and next)
friend of MARGARET GRIFFIN, a)
minor, and JEREMIAH HAMILTON,)
a minor,)
Plaintiffs,)
VS.) No. 04-1201-T-An
RICKEY D. FOSTER, et al.,)
Defendants.)

ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER
ORDER DENYING MOTION TO DISMISS AND
GRANTING MOTION FOR ADDITIONAL TIME TO SERVE DEFENDANT

Plaintiffs filed this action in the Circuit Court of Madison County, Tennessee. Defendant Jeremy Walker removed the action to this court, with jurisdiction predicated on diversity of citizenship, 28 U.S.C. § 1332. On March 8, 2005, Defendant Rickey D. Foster moved the court to dismiss the action as to him on the ground of insufficiency of service of process. Plaintiffs responded to the motion on April 4, 2005, and also filed a motion for additional time in which to effectuate service of process. On April 8, 2005, the court denied Defendant's motion and granted Plaintiffs' motion.

This document entered on the docket sheet in compliance
with Rule 58 and/or 79 (a) FRCP on 4/19/05

Defendant Foster has now filed a motion, asking the court to reconsider its previous order on the ground that he was not allowed the time prescribed by the Local Rules of this court in which to file a response to Plaintiffs' motion. Defendant also argues that Plaintiffs' attempt to serve him with process is still insufficient. Defendant's motion is DENIED for the following reasons.¹

Defendant is correct that Local Rule 7.2 allowed him fifteen days in which to respond to Plaintiffs' motion. However, Plaintiffs' response to Defendant's motion to dismiss outlined the efforts that had been made to serve Defendant and asked for the same relief as that stated in Plaintiffs' motion. Thus, the order denying Defendant's motion to dismiss would have granted Plaintiffs an extension of time in which to effectuate service of process even without Plaintiffs' motion. Consequently, Defendant was not prejudiced by the court's ruling on the motion without allowing him time to file a response.

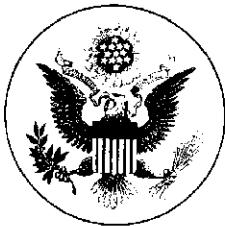
Defendant's argument that Plaintiffs have still not served him properly is not relevant to whether Plaintiffs should have been granted an extension of time in which to effectuate service of process.

¹ Motions to reconsider are not favored. See DirecTV, Inc. v. Kruse, 2004 WL 1490437 (N.D. Ohio) ("Motions for reconsideration are disfavored generally; I disfavor them strongly.") Accord Bally Export Corp. v. Balicar, Ltd., 804 F.2d 398 (7th Cir.1986); General Elec. Co. v. United States, 189 Ct. Cl. 116, 416 F.2d 1320 (1969); U.S. v. Cohen, 222 F.R.D. 652 (W.D. Wash. 2004); Miller v. Norfolk Southern Rwy. Co., 208 F. Supp.2d 851 (N.D. Ohio 2002).

Accordingly, Defendant's motion to reconsider is DENIED.

IT IS SO ORDERED.

James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE
18 April 2005
DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 16 in case 1:04-CV-01201 was distributed by fax, mail, or direct printing on April 19, 2005 to the parties listed.

William D. Holman
LAW OFFICE OF WILLIAM D. HOLMAN
1355 Peachtree Street
Suite 1000
Atlanta, GA 30309

Judy Barnhill
Criminal Justice Complex
515 S. Liberty St.
Jackson, TN 38301

R. Dale Thomas
RAINEY KIZER BUTLER REVIERE & BELL
105 S. Highland Avenue
Jackson, TN 38302-114

Daniel E. King
RAINEY KIZER REVIERE & BELL
105 S. Highland Avenue
Jackson, TN 38302-114

Honorable James Todd
US DISTRICT COURT